HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 739 of 2006

1. Anil Kumar s/o Ishwar Chand
2. Sunil s/o Ishwar Chand
3. Smt. Susheela Devi w/o Sri Ishwar Chand
4. Smt. Indresh w/o Sri Sunil, All residents of 208/14, South Krishnapuri P.s. Kotwali Muzaffarnagar.

..... Applicants

Versus

1. State of Uttaranchal
2. Rameshwar Dayal s/o Atma Ram C-98 Ashok Nagar P.s. Kotwali Roorkee

..... Respondents

Dated: 22.11.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Lokpal Singh counsel for the applicants and learned A.G.A. for the respondents.

By the present application under section 482 Cr.P.C. the applicants have prayed for quashing the proceedings of criminal case No. 27 of 2004 under sec. 323, 504, 506 498A I.P.C. and section ¾ of Dowry Prohibition Act, pending in the Court of Chief Judicial Magistrate, Haridwar.

The proceedings against the applicants under section 498-A, 323, 504 and 506 I.P.C. and Sec. ¾ of Dowry Prohibition Act, were initiated on the complaint filed by the respondent no. 2 Rameshwar Dayal under section 156(3) Cr.P.C. The statement of the complainant was recorded under section 161 Cr.P.. and he supported the averments made in the application 156(3) Cr.P.C.

It appears that during the pendency of the case reconciliation has taken place. Respondent no. 2 Sri Rameshwar Dayal has filed affidavit, in which it has been sworn that now the daughter of the deponent is living happily with her husband and dispute has been resolved.

The Apex court in the case of B.S. Joshi and others vs. State of Haryana and another, 2003 SCC (Cri) 848 has observed that although section 498-A was introduced to prevent torture to a woman by her husband or by relatives of her husband. A hypertechnical view would be counterproductive and would act against the interest of women and against the object for which this provision was added. The Apex court has observed that in exercise of the powers under section 482 proceedings can be quashed. The observations of the Apex Court are quoted below:

14. *There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from setting earlier. That is not the object of Chapter XX-A of the Indian Penal Code.*

15. *In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal*

proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code.

In view of the above proceedings of Criminal Case No. 27 of 2004 and summoning order dated 3.12.2004 passed by the Chief Judicial Magistrate, Haridwar is quashed.

Accordingly, application under section 482 Cr.P.C. is allowed.

Dated: 22.11.2006 **Rajesh Tandon, J.**

*Dhyani